

## Prison Law of the People's Republic of China (1)

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STANDING COMMITTEE OF THE NATIONAL PEOPLE'S CONGRESS

PRISON LAW OF THE PEOPLE'S REPUBLIC OF CHINA

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### CHAPTER I GENERAL PROVISIONS

Article 1 This Law is formulated in accordance with the Constitution for the purpose of correctly executing criminal punishments, punishing and reforming prisoners, preventing and reducing crimes.

Article 2 A prison is an organ of the State for executing criminal punishments.

Criminal punishments of prisoners sentenced to death penalty with a two-year suspension of execution, life imprisonment, or fixed-term imprisonment shall be executed in prisons under the Criminal Law and the Criminal Procedure Law.

Article 3 A prison shall, with regard to prisoners, implement the principle of combining punishment with reform and combining education with labour, in order to transform them into law-abiding citizens.

Article 4 A prison shall exercise supervision and control over prisoners according to law, and shall, in accordance with the needs of reforming prisoners, organize prisoners to engage in productive labour and conduct ideological, cultural and technical education among prisoners.

Article 5 Activities in prison administration, execution of criminal punishments, and education and reform of prisoners conducted according to law by the people's police of a prison shall be protected by law.

Article 6 A people's procuratorate shall exercise supervision in accordance with the law over the legality of activities conducted by prisons in execution of criminal punishments.

Article 7 Human dignity of a prisoner shall not be humiliated, and his personal safety, lawful properties, and rights to defence, petition, complaint and accusation as well as other rights which have not been deprived of or restricted according to law shall not be violated.

A prisoner must strictly observe laws, regulations, and rules and discipline of the prison, subject himself to control, accept education and take part in labour.

Article 8 The State shall ensure the expenditures of a prison for the reform of prisoners. The prisons' expenditures for the people's police, for the reform of prisoners, for the living expenses of prisoners, for the administration and installations of the prison, and other special expenses shall be included into the State budget.

The State shall provide production facilities and production expenses necessary for prisoners to do labour.

Article 9 Lands, mineral resources and other natural resources used by a prison according to law as well as properties of a prison shall be protected by law; no organizations or individuals shall seize or undermine them.

Article 10 The department of judicial administration under the State Council shall be in charge of the work of prisons in the whole country.

#### CHAPTER II PRISON

Article 11 The establishment, abolition or move of a prison shall be subject to the approval of the department of judicial administration under the State Council.

Article 12 A prison shall install one warden, several deputy wardens, and, in light of the actual needs, set up necessary working organs and provide other administrative personnel.

The administrative personnel in a prison are the people's police.

Article 13 The people's police of a prison shall strictly abide by the Constitution and the law, be loyal to their duties, enforce the law impartially, strictly observe discipline and be honest and upright.

Article 14 The people's police of a prison shall not commit any of the following acts:

- (1) to demand, accept or seize money or goods from prisoners or their relatives;
- (2) to release a prisoner without authorization or through dereliction of duty to cause a prisoner to flee from the prison;
- (3) to use torture to coerce a confession, or to use corporal punishment, or to maltreat a prisoner;
- (4) to humiliate the human dignity of a prisoner;
- (5) to beat or connive at others to beat a prisoner;
- (6) to utilize a prisoner to provide labour services for personal gains;
- (7) to privately deliver a letter or an article for a prisoner in violation of regulations;
- (8) to illegally surrender the functions and powers to supervise and control prisoners to another person; or
- (9) other law-breaking acts.

If the people's police of a prison commit any act specified in the preceding paragraph and the case constitutes a crime, the offenders shall be investigated for criminal responsibility; if the case does not constitute a crime, the offenders shall be given administrative sanctions.

#### CHAPTER III EXECUTION OF CRIMINAL PUNISHMENTS

##### SECTION 1 PUTTING IN PRISON

Article 15 With respect to a criminal who is sentenced to death penalty with a two-year suspension of execution, life imprisonment or fixed-term imprisonment, the people's court shall serve the notice of execution of the sentence and the written judgment on the public security organ where the criminal is in custody. The public security organ shall hand the criminals over to a prison for execution of the punishment within one month from the date of receiving the notice of execution of the sentence and the written judgment.

Before a criminal is handed over for execution of the criminal punishment, if the remaining term of his sentence is not more than one year, the criminal punishment shall be executed by the detention house instead.

Article 16 A people's court shall, in handing over a criminal for execution of the criminal punishment, serve on the prison a copy of the bill of prosecution from the people's procuratorate together with the

written judgment, the notice of execution and the registration form of closing the case from the people's court. The prison shall not put the criminal in prison without receiving the above-mentioned documents; if such documents are incomplete or have errors in the records, the people's court which passed the effective judgment shall, without delay, make them complete or correct; if any of the above-mentioned circumstances may lead to wrongful imprisonment of a person, the prison shall not accept him.

Article 17 A prison shall give physical examination to the criminals who are handed over for execution of their criminal punishments. A criminal sentenced to life imprisonment or fixed-term imprisonment may, after physical examination, temporarily not be put in prison under either of the following circumstances:

(1) if a criminal is seriously ill and needs to be released on parole for medical treatment; or

(2) if a criminal is a pregnant woman or a woman who is breast-feeding her own baby.

With respect to a criminal temporarily not to be put in prison as provided in the preceding paragraph, the decision on temporary execution outside prison shall be made by the people's court which handed the criminal over for the execution. With respect to any such criminal whose temporary execution of the sentence outside prison constitutes a danger to the society, he shall be put in prison. If a criminal temporarily serves his sentence outside prison, the public security organ in the place of the criminal's residence shall execute the criminal punishment. After the circumstances specified in the preceding paragraph under which a criminal is temporarily not put in prison disappeared, the criminal who has not completed the execution of his original term of sentence shall be handed over to a prison for imprisonment by the public security organ.

Article 18 When a criminal is put in prison, his or her body and the articles brought with him or her shall strictly be checked. The non-daily necessities shall be taken care of by the prison for the criminal or with the agreement of the criminal be returned to his or her families, and contraband goods shall be confiscated.

A female criminal shall be checked by a people's policewoman.

Article 19 A criminal may not bring his or her child with him or her to serve sentence in prison.

Article 20 After a criminal is put in prison, the prison shall inform the criminal's family members. A written notice shall be sent out within five days from the date when the criminal is put in prison.

## SECTION 2 HANDLING OF PETITIONS, COMPLAINTS AND ACCUSATIONS MADE BY PRISONERS

Article 21 If a prisoner is not satisfied with the effective judgment, he may file a petition.

A people's procuratorate or a people's court shall without delay handle the petitions filed by prisoners.

Article 22 A prison shall without delay handle the complaints or accusations made by prisoners, or transfer the above material to a public security organ or a people's procuratorate for handling. The public security organ or the people's procuratorate shall inform the prison of the result of its handling.

Article 23 A prison shall transfer without delay the petitions, complaints and accusations made by prisoners and shall not withhold them.

Article 24 In the course of execution of the criminal punishment, if a prison believes on the basis of a prisoner's petition that the judgment may be wrongfully made, it shall refer the matter to a people's procuratorate or a people's court for handling. The people's procuratorate or the people's court shall notify the prison of the result of its handling within six months from the date of receiving the prison's written recommendation for handling.

## SECTION 3 EXECUTION OUTSIDE PRISON

Article 25 If a prisoner sentenced to life imprisonment or fixed-term imprisonment serving his sentence in prison complies with the conditions for execution outside prison as provided by the Criminal Procedure Law, he may be permitted to temporarily serve his sentence outside prison.

Article 26 For temporary execution outside prison, a written recommendation shall be made by a prison and submitted for approval to the administrative organ of prisons of the province, autonomous region or municipality directly under the Central Government. The organ granting the approval shall notify the public security organ and the people's court making the original judgment of the decision on the approval of the temporary execution outside prison, and send a duplicate of its decision to the people's procuratorate.

If a people's procuratorate considers that it is improper to apply temporary execution outside prison to the prisoner, the people's procuratorate shall send its written opinions within one month from the date of receiving the notice to the organ that approved the temporary execution outside prison. The said organ shall, upon receiving the written opinions from the people's procuratorate, conduct forthwith reexamination and reverification of its decision.

Article 27 If a prisoner temporarily serves his sentence outside prison, the public security organ in the place of the prisoner's residence shall execute his sentence. The prison that originally held the prisoner in custody shall promptly inform such public security organ of the prisoner's performances of reform in prison.

Article 28 After the circumstances causing temporary execution outside prison disappeared, if the prisoner has not completed his term of sentence, the public security organ in charge of the execution shall without delay inform the prison to put the prisoner back into prison; if a prisoner has completed his term of sentence, the prison that originally held the prisoner in custody shall handle the formalities for the release. If a prisoner died during the period of temporary execution outside prison, the public security organ shall, without delay, inform the prison that originally held the prisoner in custody about the death.